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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

**Case No. 17-cv-00814**

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PARANEE SARIKAPUTAR, and  
PHOUVIENGSONE SYSOUVONG,  
a/k/a Tukta Phouviengsone,  
*on behalf of themselves and others similarly situated*  
Plaintiffs,

v.

VERATIP CORP  
d/b/a ThaiNY,  
d/b/a M-Thai,  
d/b/a Thai Rice and  
d/b/a Tom Yum;  
J AKIRA LLC  
d/b/a ThaiNY,  
d/b/a M-Thai,  
d/b/a Thai Rice and  
d/b/a Tom Yum;  
THAINY RESTAURANT LLC  
d/b/a ThaiNY,  
d/b/a M-Thai,  
d/b/a Thai Rice and  
d/b/a Tom Yum;  
NINETY-NINE PLUS CORP  
d/b/a ThaiNY,  
d/b/a M-Thai,  
d/b/a Thai Rice and  
d/b/a Tom Yum;  
9999 MIDTOWN CORP  
d/b/a ThaiNY,  
d/b/a M-Thai,  
d/b/a Thai Rice and  
d/b/a Tom Yum;  
PERAPONG CHOTIMANENOPHAN  
a/k/a Peter Chotimanenophan;  
MICHAEL P BRONSTEIN and  
CHARDENPONG OONAPANYO,

Defendants.

**AFFIDAVIT OF PARANEE  
SARIKAPUTAR IN SUPPORT  
OF PLAINTIFFS' MOTION  
FOR CONDITIONAL  
COLLECTIVE  
CERTIFICATION**

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I, PARANEE SARIKAPUTAR, being duly sworn and under penalty of perjury, deposes and states as follows:

1. I am a resident of Queens, New York, and I am over 18 years of age.
2. I have personal knowledge of the matters stated below.
3. ThaiNY has two locations:
  - a. “Thainy Downtown” at: 394 Third Avenue, New York, NY 10016.
  - b. “Thais New York Uptown” at: 1750 2<sup>nd</sup> Avenue, New York, NY 10128  
(formerly located at 1718 2<sup>nd</sup> Avenue, New York, NY 10128).
4. M-Thai also has two locations:
  - a. “M-Thai 1” at 232 Eighth Avenue, New York, NY 10011; and
  - b. “M-Thai 2” at 200 Eighth Avenue, New York, 10011.
5. Thai Rice is located at 165 West 23<sup>rd</sup> Street, New York, NY 10011.
6. I was employed as a Chef by the Defendants’.
7. During the entirety of my work with these restaurants, I was never paid spread-of-hours for all days in which I worked over ten (10) hours in a workday.
8. During the entirety of my work with these restaurants, I never received a Time of Hire Notice in English and in Thai (my primary language) reflecting true rates of pay and payday.
9. I also never received any paystubs, not to say a comprehensive one that lists employee’s name, employer’s name, employer’s address and telephone number, employee’s rate or rates of pay, any deductions made from employee’s wages, any allowances claimed as part of the minimum wage, and the employee’s gross and net wages for each pay day in English and in Thai (my primary language), as required by NYLL §195(1).

10. I never saw the required minimum wage poster.

11. During the entirety of my work with these restaurants, whenever Defendants paid me, Defendants post-dated the check.

12. At all relevant times, whenever Defendants paid me, Defendants would make me to hold the check until such time when the Defendants are ready to exchange the check for cash.

13. At all relevant times, when I complained to Peter, Peter would cut my hours and then ultimately terminate my employment with ThaiNY, M-Thai, and Thai Rice.

14. From on or about November 1, 2011 to October 31, 2014, I worked for ThaiNY Downtown at 394 Third Avenue, New York, NY 10016.

15. From on or about November 1, 2011 to on or about October 31, 2014, my regular work schedule ran from:

- a. 12:00 to 23:00 during the weekdays for eleven (11) hours a day and
- b. 12:00 to 24:00 during the weekends for twelve (12) hours a day.

16. From on or about November 1, 2011 to on or about October 31, 2014, I had no break.

17. From on or about November 1, 2011 to on or about October 31, 2014, I worked between five (5) and six (6) days each week.

18. However, almost 100% of the time, I worked six (6) days each week.

19. As a result, I worked for around sixty-seven (67) hours each week.

20. From on or about November 1, 2011 to October 31, 2012, I was paid one hundred dollars (\$100) a day.

21. From on or about November 1, 2012 to October 31, 2013, I was paid one hundred five dollars (\$105) a day.

22. From on or about November 1, 2013 to October 31, 2014, I was paid a flat compensation of one hundred ten dollars (\$110) a day.

23. From on or about November 1, 2014 to October 31, 2015, I worked for M-Thai 1 at 232 8<sup>th</sup> Avenue, New York, NY 10011.

24. From on or about November 1, 2014 to October 31, 2015, my regular work schedule ran from:

- a. 12:00 to 23:00 for eleven (11) hours a day on weekdays; and
- b. 12:00 to 24:00 for twelve (12) hours on weekends.

25. From on or about November 1, 2014 to October 31, 2015, I worked around fifty-seven (57) hours each week.

26. From on or about November 1, 2014 to October 31, 2015, I had a one (1) hour “break” from 15:00-16:00, not fixed.

27. However, between 15:00 and 16:00, I was required to do side work immediately after finishing her lunch, which she finished in ten to fifteen minutes each workday.

28. Additionally, if a customer ordered a dish during my lunch, my lunch ended early and she was required to go back to work.

29. As a chef, my side work involved making spring roll, curry puff, and creating various types of curry (including green curry, red curry, yellow curry, Massana curry, Penang curry), an 8-quart soup broth (including hot & sour and spicy soup), and salad sauce with vinegar, and fish sauce, depending on the restaurant need.

30. During my side work, if a customer ordered a dish, I put my side work asides and prepared dishes for the client.

31. From on or about November 1, 2014 to October 31, 2015, I was paid a flat compensation of one hundred twenty dollars (\$120) per day.

32. From on or about November 1, 2015 to December 31, 2015, I worked for two restaurants: (1) M-Thai 2 at its new location at 200 8<sup>th</sup> Avenue, New York, NY 10011 and (2) Thai Rice at 165 West 23<sup>rd</sup> Street, New York, NY 10011.

33. From on or about November 1, 2015 to December 31, 2015, my regular work schedule ran from:

a. 11:00-23:00 for twelve (12) hours a day at M-Thai at 200 8<sup>th</sup> Avenue, New York, NY 10011 for two (2) days, with no break and

b. 11:00-22:30 for eleven and a half (11.5) hours a day at Thai Rice for three (3) days, with no break.

34. From on or about November 1, 2015 to December 31, 2015, I had roughly fifteen (15) minutes for lunch at M-Thai at 200 8<sup>th</sup> Avenue, New York, NY 10011.

35. From on or about November 1, 2015 to December 31, 2015, I was assigned to work a total of five (5) days between M-Thai and Thai Rice restaurants on the weekly schedule handed to her at the beginning of each week.

36. From on or about November 1, 2015 to December 31, 2015, I was expected to abide by the weekly schedule.

37. From on or about November 1, 2015 to December 31, 2015, I worked around fifty-eight and three quarter (58.75) hours each week.

38. From on or about November 1, 2015 to December 31, 2015, I was paid a flat compensation of six hundred fifty dollars (\$650) each week.

39. From on or about January 1, 2016 to August 31, 2016, I worked for two restaurants: (1) M-Thai at its new location at 200 8<sup>th</sup> Avenue, New York, NY 10011 and (2) Thai Rice at 165 West 23<sup>rd</sup> Street, New York, NY 10011.

40. From on or about January 1, 2016 to August 31, 2016, my regular work schedule ran from:

a. 11:00-23:00 for twelve (12) hours a day with no break, at M-Thai at 200 8<sup>th</sup> Avenue, New York, NY 10011 and

b. 11:00-22:30 for eleven and a half (11.5) hours a day at Thai Rice.

41. From on or about January 1, 2016 to August 31, 2016, I was presumably given a break from 15:00-17:30 at M-Thai at 200 8<sup>th</sup> Avenue, New York, NY 10011, when the restaurant is closed.

42. From on or about January 1, 2016 to August 31, 2016, however, I was not actually given a two and a half (2.5) hour break at M-Thai at 200 8<sup>th</sup> Avenue, New York, NY 10011.

43. From on or about January 1, 2016 to August 31, 2016, I was expected to do side work, including making spring roll, curry puff, and creating various types of curry (including green curry, red curry, yellow curry, Massana curry, Penang curry), a 8-quart soup broth (including hot & sour and spicy soup), and salad sauce with vinegar, and fish sauce, depending on the restaurant need at M-Thai at 200 8<sup>th</sup> Avenue, New York, NY 10011.

44. From on or about January 1, 2016 to August 31, 2016, I had roughly fifteen (15) minutes for lunch at M-Thai at 200 8<sup>th</sup> Avenue, New York, NY 10011.

45. From on or about January 1, 2016 to August 31, 2016, I was assigned to work a total of (almost always) three (3) days between M-Thai and Thai Rice restaurants on the weekly schedule handed to her at the beginning of each week.

46. From on or about January 1, 2016 to August 31, 2016, I was expected to abide by the weekly schedule.

47. From on or about January 1, 2016 to August 31, 2016, I worked around thirty six (36) hours each week.

48. From on or about January 1, 2016 to August 31, 2016, I was paid a flat compensation of six hundred fifty dollars (\$650) if I worked five (5) days and five hundred and forty dollars (\$540) if I worked four (4) days each week.

49. From on or about September 1, 2016 to September 30, 2016, I worked for two restaurants: (1) M-Thai at its new location at 200 8<sup>th</sup> Avenue, New York, NY 10011 and (2) ThaiNY at 394 Third Avenue, New York, NY 10016.

50. From on or about September 1, 2016 to September 30, 2016, my regular work schedule ran from:

- a. 11:00-22:30 for eleven and a half (11.5) hours a day at M-Thai at 200 8<sup>th</sup> Avenue, New York, NY 10011;
- b. 12:00-23:00 for eleven (11) hours a day at ThaiNY on Monday, Tuesday, Wednesday or Sunday; and
- c. 12:00-24:00 for twelve (12) hours a day for ThaiNY on Thursday, Friday and Saturday.

51. From on or about September 1, 2016 to September 30, 2016, I was presumably given a break from 15:00-17:30 at M-Thai at 200 8<sup>th</sup> Avenue, New York, NY 10011.

52. From on or about September 1, 2016 to September 30, 2016, however, I was not actually given a two and a half (2.5) hour break at M-Thai at 200 8<sup>th</sup> Avenue, New York, NY 10011.

53. From on or about September 1, 2016 to September 30, 2016, I was expected to do side work, including making spring roll, curry puff, and creating various types of curry (including green curry, red curry, yellow curry, Massana curry, Penang curry), a 8-quart soup broth (including hot & sour and spicy soup), and salad sauce with vinegar, and fish sauce, depending on the restaurant need at M-Thai at 200 8<sup>th</sup> Avenue, New York, NY 10011.

54. From on or about September 1, 2016 to September 30, 2016, I had roughly fifteen (15) minutes for lunch at M-Thai at 200 8<sup>th</sup> Avenue, New York, NY 10011.

55. From on or about September 1, 2016 to September 30, 2016, I was not given a break.

56. From on or about September 1, 2016 to September 30, 2016, I was assigned to work a total of two (2) days at M-Thai and one (1) day at ThaiNY restaurants on the weekly schedule handed to her at the beginning of each week.

57. From on or about September 1, 2016 to September 30, 2016, I was expected to abide by the weekly schedule.

58. From on or about September 1, 2016 to September 30, 2016, I worked around thirty five (35) hours each week.



59. From on or about September 1, 2016 to September 30, 2016, I was paid a flat compensation of three hundred and ninety dollars (\$390) if I worked three (3) days and two hundred sixty dollars (\$260) if I worked two (2) days each week.

60. From on or about October 1, 2016 to December 25, 2016, I worked for two restaurants: (1) M-Thai at its new location at 200 8<sup>th</sup> Avenue, New York, NY 10011 and (2) ThaiNY at 394 Third Avenue, New York, NY 10016.

61. From on or about October 1, 2016 to December 25, 2016, my regular work schedule ran from:

a. 11:00-22:30 for eleven and a half (11.5) hours a day at M-Thai at 200 8<sup>th</sup> Avenue, New York, NY 10011 and

b. 11:00-22:30 for eleven and a half (11.5) hours a day at ThaiNY.

62. From on or about October 1, 2016 to December 25, 2016, I was presumably given a break from 15:00-17:30 at M-Thai at 200 8<sup>th</sup> Avenue, New York, NY 10011.

63. From on or about October 1, 2016 to December 25, 2016, however, I was not actually given a two and a half (2.5) hour break at M-Thai at 200 8<sup>th</sup> Avenue, New York, NY 10011.

64. From on or about October 1, 2016 to December 25, 2016, I was expected to do side work, including making spring roll, curry puff, and creating various types of curry (including green curry, red curry, yellow curry, Massana curry, Penang curry), a 8-quart soup broth (including hot & sour and spicy soup), and salad sauce with vinegar, and fish sauce, depending on the restaurant need at M-Thai at 200 8<sup>th</sup> Avenue, New York, NY 10011.

65. From on or about October 1, 2016 to December 25, 2016, I had roughly fifteen (15) minutes for lunch at M-Thai at 200 8<sup>th</sup> Avenue, New York, NY 10011.

66. From on or about October 1, 2016 to December 25, 2016, I was not given a break.

67. From on or about October 1, 2016 to December 25, 2016, I was assigned to work a total of two (2) days at M-Thai and one (1) day at ThaiNY restaurants on the weekly schedule handed to her at the beginning of each week.

68. From on or about October 1, 2016 to December 25, 2016, I was expected to abide by the weekly schedule.

69. From on or about October 1, 2016 to December 25, 2016, I worked around twenty three (23) hours each week.

70. I know other kitchen workers who worked with me and their hours because they would come and go at the same time as me.

71. Like me, they are also transferred from one restaurant and another, and sometimes work at the same restaurant at the same time.

72. During my work for Defendants, I befriended JULIAN JIGUAN, a Spanish-speaking Mexican deliveryman, who works from 11:30 to 23:00 with break from 15:30 to 17:30.

73. JULIAN JIGUAN works for both ThaiNY Uptown and ThaiNY Downtown.

74. I also befriended MANUEL VICTORIO, another Spanish-speaking Mexican kitchen worker, who works for ThaiNY before he is transferred to M-Thai1, and then he worked at M-Thai 2 and Thai Rice.

75. MANUEL VICTORIO worked about the same hours as me, for at least five (5) days a week.

76. DANY VILLANUEVA, another Spanish-speaking Mexican kitchen worker, work for ThaiNY Downtown and M-Thai2.

77. ALFREDO PREDENTE, another Spanish-speaking Mexican kitchen worker, work for M-Thai 1 and M-Thai 2.

78. ALFREDO PREDENTE worked about the same hours as me, for at least five (5) days a week.

79. FELIX SEREZO, another Spanish-speaking Mexican dishwasher first worked for ThaiNY before moving to Thai Rice.

80. FELIX SEREZO worked about the same hours as me, for at least five (5) days a week.

81. I sincerely hope that this Court allows me to represent the interest of my co-workers in this action. These Defendants exploited me and my co-workers, and it is my hope that we will be permitted to recover wages that we are owed.

82. This document has been translated to me in my native language of Thai, and I fully comprehend the contents.

Dated: June 25, 2018

Flushing, NY

PARANEE SARIKUPUTAR  
PARANEE SARIKAPUTAR

Sworn to me this 25<sup>th</sup> day of June, 2018

John Troy  
Notary Public

JOHN TROY  
Notary Public, State of New York  
No. 02TR6121824  
Qualified in Queens County  
Commission Expires 04/12/2021